THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 7610 of 1996

Dated: 21.11.2006

Between

M.S.S. Chandrasekhar, S/o Subbarao, aged 50 years, working as Junior Lecturer, Ideal College of Arts and Science, Kakinada.

……Petitioner

And

Andhra University, rep. by its Registrar, Waltair and others.

…….Respondents.

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Order:

This writ petition is filed seeking to direct the respondents to promote the petitioner as Assistant Lecturer with effect from 01.07.1977, with all consequential benefits, by setting aside the orders, dated 24.01.1996, of the 3rd respondent.

2. The petitioner was appointed as Junior Lecturer in the 2nd respondent-College in the year 1971. Pursuant to the resolution, dated 01.07.1977, passed by the governing body of the 2nd respondent-College, he was temporarily promoted and posted as Assistant Lecturer in Politics subject to approval by the 1st respondent-University. Subsequently, as the 1st respondent-University refused to

approve the resolution dated 01.07.1977, he was reverted to the post of Junior Lecturer, by orders dated 26.09.1977. Aggrieved by the same, the petitioner filed W.P.
No. 4621 of 1978, and this Court, by order dated 11.11.1983, allowed the said writ petition. Pursuant thereto, he made a representation dated 15.06.1984 requesting the 2nd respondent-College to implement the orders of this Court passed in W.P. No. 4621 of 1978 and promote him as Assistant Lecturer. As no action has been taken by the respondents, he again made a representation dated 14.08.1995 to the 3rd respondent through the 2nd respondent-College. But, the 3rd respondent, by proceedings dated 24.01.1996, rejected the same stating that it is not feasible to consider his representation for promotion as Lecturer in Politics by waiving the condition of 55% of marks in Post-Graduation. The case of the petitioner is that as on 01.07.1977, the date on which he was promoted as Assistant Lecturer, a candidate, who possessed 50% marks in Post-graduation, was eligible to hold the post of Assistant Lecturer, and as 55% marks criteria came into force with effect from 03.09.1977 and was promoted as Assistant Lecturer with effect from 01.07.1977 and his promotion having been upheld by an order of this Court, dated 11.11.1983 in W.P. No. 4621 of 1978, the rule of possessing post-graduation qualification with 55% marks cannot be given effect to with retrospective effect, and the action of the
3rd respondent in rejecting his representation on the ground that he did not possess 55% marks in Post-Graduation, is illegal and arbitrary. Hence, he filed the present writ petition.

3. When the matter is taken up for hearing, none appeared for the petitioner. Sri P. Suresh, learned counsel appearing on behalf of the 2nd respondent-College admitted that no counter affidavit is filed by the 2nd respondent-College in the matter so far. He further submits that he has not even received any instructions from the
2nd respondent-College.

4. Though the writ petition was filed in the year 1996, no counter affidavit is filed by the respondents denying the averments made by the petitioner in the affidavit filed in support of the writ petition, so far. Further, learned counsel appearing on behalf of the
2nd respondent-College submits that he has no instructions in the matter so far. It is very unfortunate to note that though the writ petition was filed in the year 1996, till date the respondents have not chosen to file counter affidavit in the matter, and hence, no purpose would be served in keeping the writ petition pending any further. In the absence of any counter filed by the respondents rebutting the allegations made in the affidavit filed in support of the writ petition, this Court has no other alternative, except to presume that the averments made in the writ petition, are true and correct, and hold that the petitioner is entitled for the relief sought in the present writ petition.

5. Accordingly, the writ petition is allowed as prayed for. No costs.

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N.V. RAMANA, J.

Date: 21.11.2006

NSR/GRR